

The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 20-75

February 8, 2022

Investigation by the Department of Public Utilities on Its Own Motion Into Electric Distribution Companies' (1) Distributed Energy Resource Planning and (2) Assignment and Recovery Costs for the Interconnection of Distributed Generation.

ORDER ON ATTORNEY GENERAL NOTICE OF RETENTION
OF EXPERTS AND CONSULTANTS

I. INTRODUCTION

On October 22, 2020, the Department of Public Utilities (“Department”) opened this inquiry to investigate electric distribution companies’ (singularly “Distribution Company”, collectively “Distribution Companies”)¹ (1) distributed energy resource planning and (2) assignment and recovery of costs for the interconnection of distributed generation (“DG”) to a Distribution Company’s electric power system (“EPS”), pursuant to its ratemaking authority under G.L. c. 164, § 94 and its superintendence authority under G.L. c. 164, § 76. Distributed Energy Resource Planning and Cost Assignment, D.P.U. 20-75 (2020). On November 24, 2021, the Department issued an Order establishing a new, provisional framework for Distribution Companies’ planning and for the funding of essential upgrades to the EPS to foster timely and cost-effective development and interconnection of DG. D.P.U. 20-75-B (2021). The Department established the provisional framework while it examines possible long-term planning solutions for the interconnection of DG while ensuring a safe and reliable electric distribution system. D.P.U. 20-75-B at 1.

On January 18, 2022, the Attorney General of the Commonwealth of Massachusetts (“Attorney General”), pursuant to G.L. c. 12, § 11E(b), filed with the Department a Notice of Retention of Experts and Consultants for funds in the amount of \$150,000 (“Attorney General Notice”). In response to the Hearing Officer’s memorandum (January 19, 2022)

¹ The Distribution Companies are Fitchburg Gas and Electric Light Company d/b/a Unitil, Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid, and NSTAR Electric Company d/b/a Eversource Energy.

inviting comments on the Attorney General Notice (“Hearing Officer Memorandum”), on January 25, 2022, Pope Energy submitted comments.

II. ATTORNEY GENERAL NOTICE OF RETENTION OF EXPERTS AND CONSULTANTS

The Attorney General has determined that it is necessary to supplement or complement her existing staff expertise in this proceeding by hiring experts and consultants to assist her in the continued review of the Department’s Straw Proposal and the Distribution Companies’ system planning (Attorney General Notice at 5). The Attorney General notes that the review process likely will include analysis of engineering, rate design, and bill impact proposals (Attorney General Notice at 5). To carry out her responsibilities in this docket, the Attorney General states that she requires consultants with the expertise to review and analyze the material filed in consideration of proposed planning concepts, to assist her in effectively advocating before the Department on behalf of the best interest of the Distribution Companies’ customers (Attorney General Notice at 5).

The Attorney General further submits that in implementing the provisions of G.L. c. 12, § 11E(b), she has taken several steps to ensure that expert services are procured and managed in the most cost-effective and efficient manner (Attorney General Notice at 6). Further, the Attorney General represents that she will execute contracts with not-to-exceed, maximum obligation provisions to ensure that costs for these services are controlled (Attorney General Notice at 6). In addition, the Attorney General states that all contractors performing work in this proceeding will be subject to the Commonwealth’s standard contract

terms and conditions (albeit payable pursuant to the terms of G.L. c. 12, § 11E(b)) and that all invoices will be reviewed by the Attorney General's office prior to being submitted for payment to ensure accuracy and compliance with the terms of the contract (Attorney General Notice at 6). The Attorney General maintains that through these processes, every effort will be made to ensure that the proposed use of funds under G.L. c. 12, § 11E is necessary to participate in the proceeding to protect customers (Attorney General Notice at 6). The Attorney General plans to bill each Distribution Company based on its "intrastate operating revenues as reported to the Department in their respective Annual Returns." Model Solar Massachusetts Renewable Target Tariff, D.P.U. 17-140, Order on Attorney General Notice of Retention of Experts and Consultants, at 5 (November 26, 2017) (Attorney General Notice at 6-7).

The Attorney General states that although she cannot predict with precision the total cost for her experts and consultants, she anticipates that expenses for these services in connection with the Distribution Companies' filings will comply with the statutory threshold of \$150,000 set forth in G.L. c. 12, § 11E(b) (Attorney General Notice at 7-8). The Attorney General further states that if she later anticipates that expenditures in this docket will exceed the \$150,000 threshold, she will make the necessary showing to the Department of the exigent circumstances that necessitate such additional spending pursuant to G.L. c 12, § 11E(b) (Attorney General Notice at 6).

III. ANALYSIS AND FINDINGS

Pursuant to G.L. c. 12, § 11E(b), the Attorney General may retain an expert or a consultant to assist in representing ratepayer interests in Department proceedings involving rates, charges, prices, and tariffs of an electric company, water company, gas company, or generator or transmission company subject to the jurisdiction of the Department. The Attorney General must file with the Department a notice that indicates the type of expert or consultant to be retained and the anticipated cost. G.L. c. 12, § 11E(b). The Department must allow the opportunity for comment on such notice. G.L. c. 12, § 11E(b). Absent a showing that the costs are unnecessary for the Attorney General to represent ratepayer interests in the proceeding or that such costs are not reasonable or proper, the Department must approve the use of an expert or consultant. G.L. c. 12, § 11E(b). The cost of retaining an expert or consultant cannot exceed \$150,000 per proceeding unless a greater amount is approved by the Department based upon exigent circumstances. G.L. c. 12, § 11E(b). All reasonable and proper expenses for such expert or consultant are to be borne by the affected company and are recoverable through the company's rates. G.L. c. 12, § 11E(b).

In the instant proceeding, the Attorney General has determined that she requires up to \$150,000 to obtain expert and consultant assistance in her review of the Distribution Companies' filings (Attorney General Notice at 6). The Attorney General has identified the issues that her experts and consultants would consider relating to the Distribution Companies' filings (Attorney General Notice at 5-6).

In compliance with G.L. c. 12, § 11E(b), by the Hearing Officer Memorandum the Department provided notice to all participants in the proceeding for an opportunity to comment regarding the necessity or desirability of the Attorney General's use of experts and consultants..² The Department finds that the Attorney General's examination of the issues identified in the Attorney General Notice is reasonably necessary to carry out her statutory authority to represent ratepayer interests in this proceeding. In addition, based on the information provided in the Attorney General Notice, the costs to retain experts and consultants appear to be reasonable and proper for the exercise of the Attorney General authority. Accordingly, the Department approves the Attorney General use of experts and consultants, the cost of which is not to exceed \$150,000 in this proceeding, unless otherwise ordered. If the costs exceed \$150,000, the Attorney General shall file a request for approval of such additional costs, consistent with the requirements of G.L. c. 12, § 11E(b).

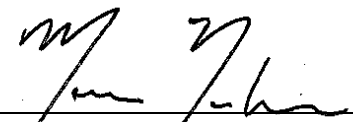
² Pope Energy's comments refer to the Attorney General Notice; however, the comments only address issues other than the necessity or desirability of the Attorney General use of experts and consultants. Therefore, the Department does not consider the Pope Energy comments in ruling on the Attorney General Notice.

IV. ORDER

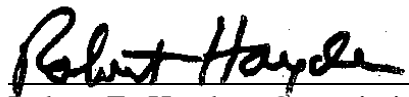
Accordingly, after notice, opportunity for comment, and due consideration, it is ORDERED: That the notice of the Attorney General of the Commonwealth of Massachusetts to retain experts or consultants at a cost not to exceed \$150,000 is APPROVED; and it is

FURTHER ORDERED: That the Attorney General of the Commonwealth of Massachusetts shall comply with all other directives contained in this Order.

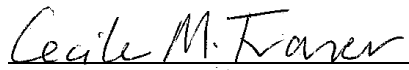
By Order of the Department,



Matthew H. Nelson, Chair



Robert E. Hayden, Commissioner



Cecile M. Fraser, Commissioner